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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,152	02/21/2008	Sung-Nack Lee	0662-0199PUS1	6578

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
TATE, CHRISTOPHER ROBIN	

ART UNIT	PAPER NUMBER
1655	

NOTIFICATION DATE	DELIVERY MODE
10/29/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/562,152	LEE, SUNG-NACK	
	Examiner	Art Unit	
	Christopher R. Tate	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *6 and 7* is/are allowed.

6)☐ Claim(s) *1 and 3-5* is/are rejected.

7)☐ Claim(s) *2* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The amendment filed 29 June 2009 is acknowledged and has been entered. Claims 1-6 have been examined on the merits.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1 and 3-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dodd et al. (US 6,344,218), in view of Li et al. (US 6,174,521), Choi et al. (IDS reference: KR 2003-0043302 - English Abstract), Aoki et al. (JP 2000079158 - JPAB Abstract), Sakiguchi (JP 2002080335 - DWPI English Abstract), and Betts (US 5,525,331) - for the reasons set forth in the previous Office action which are restated below.

A composition useful against sweat osmidrosis comprising ethanol, a polyol (such as ethylene glycol, propylene glycol, and/or glycerin), triclosan, allantoin, a licorice acid (such as glycyrrhetic acid), camphor, *Houttuynia cordata* extract, green tea extract, aloe extract, water, and perfume essence is apparently claimed.

Dodd et al. beneficially teach topical deodorant compositions which comprise, or may comprise, ethanol, a polyol (such as ethylene glycol, propylene glycol, and/or glycerin), camphor (in the form of camphor gum), water, and one or more fragrances (perfume essences) such as eugenol and/or geraniol - as active and/or desired agents therein - each apparently within the instantly claimed amount ranges (as best understood) - see entire document. Dodd et al. do not expressly teach the inclusion of the other instantly claimed ingredients therein.

Li et al. beneficially teach topical deodorant compositions which comprise, or may comprise, soothing agents such as aloe vera (which is well known to constitute the extracted gel obtained from this plant) and allantoin, as well as triclosan, glycols (such as glycerin), water, and fragrances (perfume essences) such as bergamot oil, camphor, citrus oils, and/or other essence oils - as active and/or desired agents therein (see entire document).

Choi et al. beneficially teach a topical deodorant composition which comprises *Houttuynia cordata* extract and licorice extract (please note that the licorice extract would intrinsically contain one or more naturally-occurring licorice acids) - as bioactive herbal ingredients therein, each apparently within the instantly claimed amount ranges (as best understood) - see English Abstract.

Aoki et al. beneficially teach a topical deodorant composition (e.g., for deodorizing body odor) comprising green tea extract as a bioactive herbal ingredient therein - see English Abstract.

Sakiguchi beneficially teaches a topical deodorant composition comprising salicylic acid, as well as camphor, menthol, and triclosan - as active and/or desired agents therein (see English Abstract).

Betts beneficially teaches a topical deodorant composition comprising glycyrrhetic acid as an anti-inflammatory agent (apparently within the instantly claimed amount range, as best understood), as well as triclosan, one or more polyols, allantoin, and aromatic phenols (perfume essences) such as eugenol - as active and/or desired agents therein (see entire document).

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to further include other well known active and/or desired ingredients (such as those instantly claimed) within topical deodorant composition such as those disclosed by

Dodd et al. based upon the beneficial teachings provided by the secondary references cited above with respect to the conventional use of such active/desirable agents therein, as discussed above. In addition, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the instant ingredients for their known benefit since each is well known in the art for the same purpose (i.e., each is well known to be useful as active/desirable ingredients within deodorant compositions including topical deodorant compositions) and for the following reasons. It is well known that it is *prima facie* obvious to combine two or more ingredients each of which is taught by the prior art to be useful for the same purpose in order to form a third composition which is useful for the same purpose. The idea for combining them flows logically from their having been used individually in the prior art. This rejection is based on the well established proposition of patent law that no invention resides in combining old ingredients of known properties where the results obtained thereby are no more than the additive effect of the ingredients. In re Kerkhoven, 626 F.2d 846, 850, 205 U.S.P.Q. 1069 (CCPA 1980), In re Sussman, 1943 C.D. 518; In re Pinten, 459 F.2d 1053, 173 USPQ 801 (CCPA 1972); In re Susi, 58 CCPA 1074, 1079-80; 440 F.2d 442, 445; 169 USPQ 423, 426 (1971); In re Crockett, 47 CCPA 1018, 1020-21; 279 F.2d 274, 276-277; 126 USPQ 186, 188 (1960). The result-effective adjustment of particular conventional working conditions (e.g., determining suitable amounts of such ingredients therein) is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan having the cited references before him/her as a guide.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Applicant's arguments have been carefully considered but are not deemed to be persuasive of error in the above rejection. Applicant argues that at least some of the cited references do not teach the claimed intended use of improving sweat osmidrosis, especially apocrine sweat gland osmidrosis. However, please note that the intended use of the claimed composition does not patentably distinguish the composition, per se, since such undisclosed use is intrinsic to the deodorant composition reasonably suggested by the combined teachings provided by the cited references, as a whole.

In response to applicants' argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicants' disclosure, such a reconstruction is proper.

Claim Objections

Claim 2 is objected to but would be allowable if rewritten in independent form including all the limitations of claim 1 appropriately incorporated therein.

Conclusion

Claims 6 and 7 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Tate whose telephone number is (571) 272-0970. The examiner can normally be reached on Mon-Thur, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R. Tate/
Primary Examiner, Art Unit 1655